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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-third session

SUMMARY RECORD OF THE 1280th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 5 August 1998, at 3 p.m.

Chairman: Mr. ABOUL NASR

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The meeting was called to order at 3.20 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Communication of information (CERD/C/53/Misc.7)

1. The CHAIRMAN gave the floor to Mr. Banton for the presentation of the document prepared by him on the practice of the Committee on the Elimination of Racial Discrimination (CERD/C/53/Misc.7).

2. Mr. BANTON explained that the document was a memorandum designed to provide delegations with briefing material which was generally communicated given to them orally in written form - and thus more convenient to use.

3. In the first draft of the document (distributed in English only) there had been a sentence at the end of the second paragraph stating that "sometimes exceptions have to be allowed" to the procedure described. That sentence had been excised by the editorial services. It could be reinstated if the members of the Committee wished to avoid being reminded of rules which might on occasion prove excessively strict.

4. He went on to draw the attention of the delegates to the second paragraph of the section on "Initial and periodic reports". Recalling a suggestion made to him during the morning, he proposed the inclusion of a specific statement to the effect that the Country Rapporteur should compare the report of the country concerned with the Committee's concluding observations on that country's previous report.

5. As regards the possibility of providing delegations in advance with a list of questions, he recalled that the establishment of a pre-sessional working group of the kind existing in other treaty bodies had been contemplated, but that the Committee had not pursued the idea. Further on, the request to members of the Committee not to repeat the courtesies addressed to delegations by the Chairman was a recommendation made by the eighth meeting of chairpersons of human rights treaty bodies; he had mentioned it in passing but did not press the point. He added that he had deleted from his draft a request that questions or comments already put be not repeated, even though such repetitions seemed to him superfluous.

6. The reference to the conclusion of members' questions and comments "before the end of this first meeting", although designed to speed up the work of the Committee, was no more than an expression of hope. On the other hand, he considered it extremely important that when the representatives of a State party had replied to the first set of questions put by the experts, the latter should restrict their second series of questions to matters arising directly out of those replies, particularly as certain delegations gave such protracted explanations that they left only very little time for interventions by the experts, and in particular by the Country Rapporteur. The last sentence of the paragraph referred to the opportunity given to the representatives of States parties to comment on the Committee's observations. To avoid comments of excessive length - which had to be included as annexes to the Committee's report to the General Assembly - it might be desirable to specify that such comments should be "brief".

7. The third paragraph of that section of the document contained a statement to the effect that, in view of the difficulty a delegation might have in giving oral replies to some of the questions asked, it might be requested to include its replies in "subsequent periodic reports". The use of the plural was clearly erroneous; the text should read "in its next report". He would have liked to include in that paragraph a warning to delegations not to make over-lengthy statements; since the attention timespan of the listeners was insufficient to enable them to listen carefully right through the statement, the whole exercise might prove a waste of time for all concerned. However, the formulation of such a warning was an extremely delicate matter.

8. The second section of the memorandum was entitled "Reviews". Thinking that some States might fail to send in their reports on the grounds that the review procedure was to be applied to them, Mr. Banton had repeated in summary form the contents of the last paragraph of the previous section; but the editorial services had deleted the text. He asked the experts to consider whether it might be desirable to reinstate it.

9. The final section of the memorandum was purely descriptive and did not call for comment.

10. In conclusion, he expressed the hope that the Committee would adopt a document - either the one he had just outlined or a different one - on its practice, since experience had demonstrated that when delegations were well aware of that practice the Committee worked more efficiently.

11. The CHAIRMAN considered that the subject-matter of the memorandum should be dealt with in two separate documents; one dealing solely with matters of concern to member States, such as the time allowed for speeches and the conduct of the consideration of reports, should be addressed to member States; the other should be reserved exclusively for Committee members. He considered that the rules for conduct set out in the second document should not be too strict; they might, for instance, seriously hamper certain experts who frequently scattered compliments to delegations throughout their speeches. While recognizing that rules and restrictions were necessary for the good order of the proceedings, he called for the flexibility which reality demanded.

12. Mr. de GOUTTES began by pointing out that, under the terms of Mr. Banton's draft, a delegation would only have 10 to 20 minutes to deliver the oral presentation of his country's report. This seemed to him an excessively short time allowance, firstly, because that statement often contained updatings and was consequently of the utmost interest for the Committee, and secondly, because both the Country Rapporteur and the representative of a State the situation in which was being examined under the early warning and urgent action procedures were allowed 30 minutes. It would be preferable to allow the same time as those other speakers, namely 30 minutes.

13. He went on to suggest, in connection with the comments which States parties could make on the concluding observations of the Committee, that the following words should be added to the last sentence of the fourth paragraph of the document under consideration: "for practical reasons it is recommended that such comments should not exceed two pages in length".

14. Ms. McDOUGALL, like the Chairman, considered that the memorandum sought to address to two audiences, namely States and Committee members, and that it should be broken down into two separate documents. She went on to observe that, when delegations were unable to reply immediately to questions put to them by the Committee, it was sometimes necessary to wait for two years or more before receiving a reply; that delay could deprive the matter of its interest.

15. The CHAIRMAN pointed out that the first paragraph of article 9 of the Convention authorized the Committee to request further information from States parties but made no mention of any time-limit for the submission of that information. It would thus appear that the Committee did not have the power to require that the information be communicated to it more rapidly.

16. Mr. RECHETOV considered that the introduction of excessive rigidity into practice with regard to repetition of courtesies and questions would have unfortunate effects; it would be preferable to leave it to the Chairman and the experts to decide on the steps to be taken in the light of the circumstances. The frigid atmosphere to which that concern for reserve and efficiency was likely to give rise could be highly prejudicial to the general climate of the dialogue to be developed with the representatives of States parties. Moreover, as long as no highly sophisticated machinery capable of evaluating and assessing country reports existed, such evaluations could only be made satisfactorily within the framework of discussions between individuals, all of whom could state their individual reactions and feelings. If the Committee was genuinely satisfied with a report from a country, or with the situation in that country, it should not be niggerdly with congratulations; equally, it should not be sparing of criticism when it was dissatisfied. Similarly, when the Committee considered a question particularly important, it was right that that question should be raised several times; otherwise it might be thought to have been raised as an incidental matter. If the Committee were to apply to the letter the rules of conduct proposed by Mr. Banton, it would have great difficulty in arriving at generally acceptable conclusions.

17. Mr. SHERIFIS supported Mr. de Gouttes' proposal that delegations should be allowed 30 minutes for presentations. Like Mr. Rechetov, he also considered that Committee members should not be prevented from repeating a question if they considered that the issue was important. The Chairman should not be the only member of the Committee with the right to address brief courtesies to a delegation. Other members should also be able to do so. Finally, referring to article 40 of the rules of procedure, which allowed the Chairman to close the list of speakers even though other members might still wish to speak, he considered that that rule should not be applied over-strictly; Committee members should be able to intervene in a discussion if they considered they could make a useful contribution to it.

18. Mr. van BOVEN shared the views of his colleagues that the memorandum should be revised so as to introduce greater flexibility into Committee practice. He also considered that the document should be divided into two separate parts.

19. Mr. BANTON stated that in his view the wide range of questions covered in an initial report justified a time allowance of 30 minutes for the rapporteur's statement.

20. The CHAIRMAN thanked Mr. Banton for preparing the information document and proposed that it be revised in the light of the comments made by Committee members.

Venue of certain sessions of the Committee (CERD/C/52/Misc.36/Rev.1; in English only)

21. The CHAIRMAN drew the attention of members to the decision taken by the Committee at its fifty-second session (CERD/C/52/Misc.36/Rev.1). In his view that text - which took into account the amendment proposed by Mr. van Boven to the effect that the winter session should be held in New York only once every two years - was not in line with the Convention. He stressed the unfairness of requiring some countries which had diplomatic missions in New York but not in Geneva to send delegations to Geneva.

22. Mr. HUSBANDS (Secretary of the Committee) stated that, according to rule 25 of the rules of procedure, before the Committee approved a proposal giving rise to expenditure, the Secretary-General was to prepare an estimate of the financial implications of the proposal and have it distributed to the members of the Committee. It was the Chairman's responsibility to draw the attention of the members to that estimate in order to ensure that they discussed it at the time of taking a decision on the proposal. The estimate would be submitted to the Committee during the following week, and the Committee would then have to reaffirm the decision it had taken at its fifty-second session. That decision, together with the estimate, would be included in the report of the Committee to the General Assembly in accordance with established practice.

23. Mr. SHERIFIS stated that the Committee should take all necessary steps to ensure, in line with the wishes of the Chairman, that the Committee could hold a certain number of sessions in New York each year. He would be prepared to support an amendment to the decision to the effect that the winter session should be held in New York every year instead of every two years. He also expressed regret that the current session of the Committee was taking place in such a poorly situated room; in particular, it was too far from the room in which the Sub-Commission against Discriminatory Measures and the Protection of Minorities was holding its session. The situation was particularly regrettable in the light of the efforts of the Committee to promote greater awareness of its activities among the general public. Mr. YUTZIS and Ms. McDOUGALL shared his views.

24. Mr. HUSBANDS (Secretary of the Committee) stated that other committees, and in particular the Human Rights Committee and the Committee against Torture, considered Room V to be a meeting room offering a number of

advantages. He said that he would seek to ascertain the specific administrative reasons which had led to the choice of Room V for the current session of the Committee.

25. Mr. de GOUTTES was not convinced of the timeliness of sending forward that decision in the currently prevailing context of financial stringency. During the vote on the decision he had abstained, even though he was on balance in favour of the compromise solution it offered (a winter session in New York every two years). Although he had fully understood the argument based on paragraph 4 of article 10 of the Convention, he himself invoked considerations which militated in favour of continuing to hold sessions in Geneva; these included the fact that discussions there were less politicized and that there was a trend towards a measure of centralization of human rights activities in Geneva. He was supported in his views by Mr. Garvalov.

26. Mr. RECHETOV also expressed reservations concerning the possible adoption of a decision with considerable financial implications in the current context. In the more general context, he speculated on trends in the status of the Committee. It was a matter of concern that the High Commissioner for Human Rights had not yet found the time to address the Committee. It might be asked why the Sub-Commission on Prevention of Discrimination and Protection of Minorities seemed to be enjoying much greater favour than the Committee, from the standpoints of both the resources devoted to it and of the place it occupied within the United Nations system.

27. The CHAIRMAN recalled that the holding of sessions at United Nations Headquarters was provided for in the Convention. He saw no reason to depart from these provisions.

28. Mr. YUTZIS pointed out that he had only wanted to say that the holding of sessions at United Nations Headquarters would be a bonus for the Committee. There was no justification for not holding any meetings of the Committee at all in New York.

29. The CHAIRMAN said that a consensus seemed to be emerging in favour of confirmation by the Committee of its decision of 29 March 1998 even after it had been informed of the financial implications. He would propose in his personal capacity that the words "every second year" in the first paragraph of the operative text should be deleted.

30. Mr. SHAHI considered that a stipulation should be made to the effect that the session which the Committee wished to see held at the Organization's Headquarters should be the March session, and not the summer session, at which the Committee was able to work in parallel with the Sub-Commission.

Duration of certain sessions of the Committee (CERD/C/52/Misc.47/Rev.1; in English only).

31. Mr. SHERIFIS asked the Secretary of the Committee if the decision to extend by five days the duration of one of the sessions of the Committee also had to form the subject of an estimate of the financial implications, and, if so, whether that estimate was ready.

32. Mr. HUSBANDS (Secretary of the Committee) replied that that decision also required the preparation of an estimate of financial implications, and that that estimate would be submitted to the Committee during the following week.

Relations with other human rights organizations (CERD/C/53/Misc.12)

33. Mr. de GOUTTES was ready to report on the liaison activities with other organizations for which he had been made responsible; but first of all he asked whether his colleagues were prepared to report on their own activities, so that a global approach to the matter could be developed.

34. Mr. SHERIFIS stated that before each member described his own activities the Committee should decide whether it wished to continue with that practice, in what manner, and whether the same persons would continue to be responsible for liaison.

35. Mr. de GOUTTES considered that, if the Committee wished to open up fully to the outside world, the subject should be returned to and considered systematically - for example, once every year.

36. Mr. PECHETOV supported the observations made by the two previous speakers. He hoped that concrete measures would be taken to situate the efforts of individual experts within a global approach, since the liaison activities he himself had attempted to conduct had not achieved the desired results.

37. The CHAIRMAN stated that somebody should take responsibility for liaison at the African Commission on Human and People's Rights.

38. Mr. SHERIFIS stated that he had conducted liaison activities with the Commonwealth inasmuch as he had for two years resided over the Commonwealth Committee for Refugees and Displaced Persons. He reminded the meeting that the Commonwealth was also striving to eliminate racial discrimination. In that connection he described his embarrassment over a particular incident: to maintain liaison with the Committee, the Commonwealth had nominated a senior secretariat official, who had soon expressed the wish to go to Geneva to meet the members of the Committee. Mr. Sherifis had transmitted that information to the Chairman of the Committee; but he had been requested to reply negatively to the proposal of the Commonwealth representative on the grounds that the Committee did not have time to meet him.

39. Mr. SHERIFIS, who had served as a diplomat in Italy, recalled that he was also responsible for liaison with the European Union (the President of which at that time was an Italian); but he hoped that Mr. de Gouttes would take back that function. He was, however, ready to continue his liaison activities with the United Nations High Commissioner for Refugees.

40. The CHAIRMAN asked Mr. de Gouttes if he accepted the proposal to take over responsibility for relations with the European Union, which had hitherto lain with Mr. Sherifis.

41. Mr. de GOUTTES accepted Mr. Sherifis' proposal in principle, stating, however, that he wished to continue to maintain liaison with the Office of the High Commissioner for Human Rights. However, as the former Centre for Human

Rights had now been superseded by the Office of the High Commissioner, it would probably be desirable to obtain information on the position of the High Commissioner for Human Rights - who had only recently taken up her duties - and to determine the position of the Committee on the subject.

42. Mr. NOBEL had been surprised to learn that little was known on the international plane of the activities of the Committee, which seemed to some extent to be becoming marginalized, even within the United Nations system. To remedy this situation it would certainly be desirable for the experts to make even greater efforts to inform international organizations and NGOs about the activities of the Committee. It would be particularly useful to clarify the objectives the Committee hoped to attain during the World Conference on Racism so as to be able to intervene with its international partners as effectively as possible.

43. Mrs. SADIQ ALI, who was responsible for liaison with the working group responsible for drawing up the draft text of a United Nations Declaration on the Rights of Indigenous Peoples, stated that she had been unable to speak directly with Mrs. Erica-Irene Daes, the Special Rapporteur on the protection of the heritage of the indigenous people. She had therefore based her report to the Committee on the activities of the Working Group on Indigenous Peoples on information published in *Human Rights Monitor* by the International Service for Human Rights (volumes 39 and 40).

44. The third session of the Working Group was held on 27 October-7 November 1997. It was attended by hundreds of participants, representing 31 States and 56 government indigenous organizations. The theme underlying the discussions of the Working Group was the principle of the right of indigenous peoples to self-determination; the indigenous delegations considered that right to be the fundamental and essential element on which all the other articles in the draft declaration under consideration rested.

45. The participants were unable to reach agreement on most of the draft articles under consideration and in particular on the text of article 14, which provided that indigenous peoples had the right to develop and use their own histories, languages and philosophies. On other articles - article 15, relating to the right to education in traditional activities, control of educational systems and teaching in indigenous languages; draft article 16, concerning the inclusion of the cultures of indigenous peoples in all forms of education and public information; draft article 17, relating to the right of indigenous peoples to establish their own media and to use them to broadcast in their own languages; and article 18, affirming the right of indigenous peoples to enjoy all the rights set forth in national or international labour legislation - the participants failed to agree and decided to pursue consideration thereof. However, they did adopt the draft texts of article 43, concerning equality of the sexes, and article 5, which guaranteed the right of all indigenous people to a nationality.

46. All in all, the session was considered to have been relatively productive - certainly by comparison with the preceding session - even though the two articles which had been adopted were not closely linked to the fundamental question of self-determination of indigenous peoples.

47. Ms. McDOUGALL drew attention to an important omission. No member of the Committee had been given responsibility for liaison with the Sub-Commission on

Prevention of Discrimination and Protection of Minorities, the work of which - and particularly that relating to racism - was of the utmost importance in matters of concern to the Committee. As an alternate member of the Sub-Commission and a member of the Committee, she would be willing to ensure liaison between the two bodies.

48. The CHAIRMAN proposed that the Committee should give Ms. McDougall responsibility for liaison with the Sub-Commission.

49. It was so decided.

50. Mr. de GOUTTES, who was responsible for liaison with the Council of Europe, the European Union and the European Parliament, stated that the European Commission against Racism and Intolerance (ECRI), which had been established in 1993 by the Heads of State and Government of the 40 member States of the Council of Europe, had already held 17 plenary sessions. It was made up of thematic groups conducting activities of five different types. The first type of activity involved a country-by-country approach designed to combat racism on the basis of in-depth analyses of the situation in each country and the making of recommendations adapted to each national situation. That approach had enabled reports to be prepared concerning the situation in 23 countries.

51. The ECRI also prepared general recommendations on the role of specialized national organizations in the campaign to combat racism and intolerance. Some of those recommendations had led to the establishment of the office of a human rights mediator; others concerned the combating of intolerance directed against Roms and Gypsies and the conduct of national inquiries into the attitudes and experiences of victims of intolerance, discrimination and racism.

52. The ECRI identified examples of "good practices" in member countries of the Council of Europe in the field of combating discrimination in education, the training of police officers, cultural life, mediation, vulnerable groups, etc., and was distributing compilations of those practices for use by persons and organizations combating racism in member countries.

53. It was using new technologies to further the campaign against racism over the Internet. It had established a database (www.ECRI.coe.fr) which offered information on racism and the campaign against it. Within the framework of its standard-setting activities, the ECRI had induced the Committee of Ministers of the Council of Europe to adopt an additional protocol to the European Convention on Human Rights making article 14 of that Convention (relating to non-discrimination) of general application.

54. The ECRI maintained relations with all international organizations combating racism, and in particular with the Committee on the Elimination of Racial Discrimination. It had to be remembered that the ECRI had been at the origin of the decision to request the Council of Europe to take charge of the preparations for the World Conference on Racism in the context of the member States of the Council of Europe. In that connection the Council of Europe would organize a European Preparatory Conference in 2000 or 2001; the preparation would begin at the end of 1998. Mr. de Gouttes also stated that the 15 member States of the European Union had established a consultative committee on racism and xenophobia which had provided the initial impetus for

the establishment in 1997 in Vienna of a monitoring centre for racism and xenophobia, whose principal task it was to provide the European Union and its members with objective, reliable and comparable data on racism, xenophobia and anti-Semitism. It would perform that task drawing in particular on the resources of a European information network. On 15 July 1996 the Council of the European Union had adopted an important common platform on racism and xenophobia, based on the Treaty of the European Union, with a view to combating the racist offences mentioned in a list which not only comprised the offences mentioned in article 4 of the Convention but went even further.

55. In conclusion, Mr. de Gouttes stated that the European Parliament had adopted several resolutions condemning racism and xenophobia and that a group of members of the European Parliament had been given responsibility for monitoring issues relating to racism.

56. Mr. RECHETOV, who was responsible for liaison with the Baltic Council, had been following with interest the activities of that organization, which maintained liaison between the Baltic States and other States in the region, and in particular in its activities relating to human rights and the protection of the rights of national minorities.

57. The Baltic Council had commissioners on national minorities which made recommendations to member States concerning legislative measures to be taken with regard to national minorities. For example, several of their recommendations had been adopted and implemented by Estonia. One of those recommendations was designed to promote teaching of the Estonian language to young persons; another sought to amend existing legislation so as to enable aliens resident in Estonia to participate in municipal and other local elections.

58. Other recommendations made by the commissioners had failed to secure adoption, or had not been implemented, for various reasons. Among other things, they proposed the granting of Estonian citizenship to stateless children residing in Estonia; the creation of a post of independent mediator; and an increase in the immigration quota (currently fixed at 500) to facilitate the reunion of immigrants' families.

59. Mr. Rechetov had observed that, generally speaking, the Council paid little attention to the reports of the Committee and its efforts to promote international cooperation; he had even observed a certain cooling of attitude towards the Committee. He was therefore increasing his efforts to keep the Council informed of the work of the Committee and vice versa.

60. The CHAIRMAN thanked the members of the Committee for the information they had provided on their liaison activities and added that the Committee would at its next meeting continue consideration of the short-notice agenda items and the draft decisions under consideration.

The meeting rose at 6.00 p.m.